

Message Text

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DRAFTED BY SCA;SCS;LPMULLIN
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O 111449Z NOV 75
FM SECSTATE WASHDC
TO AMEMBASSY MEXICO IMMEDIATE

UNCLAS STATE 266568

E.O. 11652: N/A

TAGS: CPRS

SUBJECT: STOLEN AND EMBEZZLED U.S. PLANES

REF: MEXICO 9803 AND 9793 STATE 59693 AND 135010

1. IT IS NOT THE FUNCTION OF EITHER THE EMBASSY OR DEPARTMENT TO DETERMINE WHETHER OR NOT A PLANE IS SUSCEPTIBLE TO RECOVERY UNDER THE CONVENTION. DECISION TO APPLY UNDER CONVENTION CAN ONLY BE MADE BY OWNER, AS YOU STATE IN EMBASSY'S FORM LETTER SENT TO 127 OWNERS IN AUGUST. IF THE EMBASSY PERSISTS IN MAKING SUCH JUDGMENTS BEFORE RECEIPT OF ALL DOCUMENTS FROM AIRCRAFT OWNER OR LEGAL REPRESENTATIVE, OWNERS MAY HAVE LEGITIMATE COMPLAINT THAT EMBASSY IS DISCOURAGING OR THWARTING USE OF CONVENTION.

2. EMBASSY SHOULD NOTE THAT U.S. GOVERNMENT HAS NO AVENUE EXCEPT CONVENTION TO REQUEST RELEASE OF STOLEN OR EMBEZZLED VEHICLES. STATE DEPARTMENT CANNOT INTERFERE IN THE INTERNAL AFFAIRS OF GOM BY MAKING DEMARCHE OVER PLANES IN THE HANDS OF COURTS BUT CAN ONLY MAKE REPRESENTATION ON BEHALF OF CLAIMANTS WHO ARE FOLLOWING THE CONVENTION ROUTE. IF OWNER WISHES MAKE CONVENTION APPLICATION CONCURRENT WITH JUDICIAL

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PROCESS THAT IS HIS PREROGATIVE. (IF GOM HOLD UP CONVEN-

TION PROCESS IN ANTICIPATION JUDICIAL DECISION, USG IS
OFF-THE-HOOK.)

3. THEREFORE, THE DEPARTMENT INSTRUCTS THE EMBASSY TO PUT
INTO EFFECT AT ONCE THE FOLLOWING PROCEDURE IN ALL CASES
IMMEDIATELY UPON RECEIPT REPORT OF CONFISCATED US
PLANES.

A. REPORT ALL FACTS AS PER FORMAT STATE 135010 FYI:
EMBASSY WILL HAVE NOTED THAT ITEM 13 OF THE FORMAT READS
QUOTE WHETHER SUSCEPTIBLE TO RECOVERY UNDER CONVENTION
UNQUOTE. THIS ITEM IS MEANT TO BE AN ATTEMPT TO SEPARATE
PLANES CONFISCATED WHILE IN POSSESSION OF OWNER OR OWNER
PILOT FROM THOSE CONFISCATED IN ABSENCE OF OWNER AND PILOT
IS NOT OWNER. THIS IS THE ONLY AREA WHERE DEPT. CAN
MAKE EVEN AN ASSUMPTION THAT PLANE WAS NOT STOLEN OR
EMBEZZLED. ALL CONFISCATED PLANES OF ABSENT OWNERS HAVE
TO BE PRESUMED TO BE RELEASABLE UNDER THE CONVENTION
UNTIL OWNER MAKES DECISION OF SUSCEPTIBILITY.

B. AT SAME TIME WRITE LETTER TO OWNER GIVING HIM ALL
PERTINENT INFO PLUS INSTRUCTIONS FOR FILING FOR RELEASE
UNDER THE CONVENTION. (WITH COPY TO DEPARTMENT)

C. FORWARD TO GOM AS SOON AS RECEIVED THE DOCUMENTS
PRESENTED BY THE OWNER OR LEGAL REPRESENTATIVE WITH COPY
OF NOTE VERBALE TO OWNER AND TO DEPARTMENT. KISSINGER

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